

Chapter 21

HEALTH*

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ARTICLE I. IN GENERAL

Sec. 21-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Department.* The term "department" shall mean the department of health and human services.
- (2) *Director.* The term "director" shall mean the director of the health department.

Sec. 21-2. Health and human services department—Created; general duties.

There is created a health and human services department. The officers and employees of that department are charged with the duty of enforcing all laws and ordinances relating to health and such other duties as are now or may hereafter be placed upon them by the mayor, city council and by the ordinances and Charter of the city. Any reference in this Code to the "health department," the "human resources department," the "area agency on aging" or the "health and human re-

sources department" of the city shall mean a reference to the health and human services department.

(Code 1968, § 21-1; Ord. No. 85-889, § 1, 6-13-85; Ord. No. 85-1190, § 1, 7-17-85)

Sec. 21-3. Same—Director designated; duties.

(a) The director of public health shall be the director of the health and human services department, and shall also be known as the city health officer. For the purposes of this Code, the terms "health officer," "director of public health," "director of health," "director of health and human services," "director of health and human resources," "director of human resources" and "director of the area agency on aging" shall be synonymous. The director of public health shall coordinate the activities and recommendations of the mayor and board of health of the city, the health department of the state and the United States Public Health Service.

(b) It shall be the duty of the director of public health to enforce all laws, ordinances and regulations pertaining to public health, to enforce regulations necessary for the occupational health of commercial and industrial workers, and to per-

***Cross references**—Alcoholic beverages, Ch. 3; ambulances, Ch. 4; animals and fowl, Ch. 6; housing code, § 10-151 et seq.; food and drugs, Ch. 20; possession, etc., of glue and related substances, § 28-21 et seq.; pay toilets in public places, § 28-29; manufactured homes and recreational vehicles generally, Ch. 29; noise, Ch. 30; payment of medical examination costs of rape victims, § 34-38; solid waste and litter control, Ch. 39; swimming pools, Ch. 43; medical examination of taxicab drivers, § 46-112; waters and sewers, Ch. 47.

form all public health services provided for by the laws of the state and the ordinances and Charter of the city. He shall direct the health and human services department, and all employees thereof shall be under his immediate direction and control. The director is hereby authorized to prescribe the duties of each employee and change such duties from time to time as he sees fit. The director may delegate the supervision of various functions of the health and human services department to such of the employees of such department as he may designate. He shall have authority to remove any nonclassified employee from the health and human services department for cause.

(c) No provision of this Code shall be construed as requiring the director of public health to be a licensed physician in Texas. If the person serving in that position is not a licensed physician, then, as provided by Section 121.033 of the Texas Health and Safety Code, the director of public health shall appoint another person who is a licensed physician in Texas as the "health authority" for the jurisdiction, subject to confirmation by city council. Consistent with state law, any function that devolves upon the director of public health and is required to be performed by a licensed physician shall be performed by the health authority instead of the director of public health if the director is not a licensed physician.

(Code 1968, § 21-2; Ord. No. 85-889, § 2, 6-13-85; Ord. No. 85-1190, § 2, 7-17-85; Ord. No. 04-684, § 1, 6-30-04)

Cross reference—Officers and employees generally, § 2-21 et seq.

Sec. 21-4. Appointment of officers and employees and contract personnel of health department generally.

(a) The director shall be appointed by the mayor and confirmed by the council. All other officers and employees of the department, not exempted from civil service by article Va of the charter, shall be appointed in accordance with such article Va, except as otherwise specifically provided. The director shall have authority to pass upon the qualifications, efficiency and fitness of all employees in the health department,

and no person shall be employed in the health department until the director has approved his employment.

(b) The director is hereby authorized to employ health care professionals duly licensed to practice in the state as independent contractors who are not affiliated with the city as employees for individual clinic sessions as follows:

Medical clinic sessions:

Board certified specialist.....	\$35.00 per hour
Licensed M.D., nonboard specialist .	30.00 per hour
M.D. in fellowship program	25.00 per hour
Licensed D.P.M.	30.00 per hour
Licensed nurse practitioner	22.50 per hour
Certified nurse midwife	22.50 per hour

Dental clinic sessions:

Licensed D.D.S. or D.M.D. with advanced specialty degree in dentistry....	\$32.50 per hour
Licensed D.D.S. or D.M.D.	30.00 per hour

In the selection of such health care professionals, the director is authorized to require as a condition of appointment for such professional services that the individuals so appointed shall carry professional liability insurance in the amounts required by the director.

(Code 1968, § 21-4; Ord. No. 77-501, § 1, 3-15-77; Ord. No. 78-2200, § 1, 11-1-78; Ord. No. 92-289, § 1, 3-18-92)

Sec. 21-5. Appointment of acting director.

The mayor is authorized from time to time to appoint one of the division heads in the department to act in the capacity of director when the person duly appointed to fill such position is absent from duty.

(Code 1968, § 21-5)

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(Code 1968, § 21-5)

Sec. 21-6. Auxiliary health inspectors.

Whenever, in the mayor's judgment, the state of the public health demands such action, the mayor is empowered to appoint any employee of the city in any department as an auxiliary health inspector in addition to his other duties. Any such auxiliary health inspector so appointed shall be considered an inspector of the department and shall have all the powers and duties of same. (Code 1968, § 21-6)

Sec. 21-7. Employee qualifications.

The holders of all the positions in the department shall possess qualifications in accordance with the standards heretofore laid down for persons performing public health functions, such standards having been approved and recommended by the state and territorial health officers and the Texas Department of Health. All new employees appointed to any of such positions must meet all minimum requirements as set up by the state and territorial health officers and the Texas Department of Health. (Code 1968, § 21-7)

Sec. 21-8. Medical examinations to identify diseases.

Whenever it shall be deemed necessary by the health officer to establish the true character of any disease which is suspected to be communicable, a medical examination of the person affected by such disease may be ordered by such officer. Any person interfering with or refusing to permit such examination shall be guilty of a misdemeanor. (Code 1968, § 21-8)

Sec. 21-9. Reserved.

Editor's note—Section 13 of Ord. No. 91-1102, adopted July 31, 1991, repealed § 21-9 in its entirety. Formerly, § 21-9 pertained to health nuisances generally and derived from § 21-11, Code 1968, and § 2 of Ord. No. 85-1839, adopted Oct. 22, 1985.

Sec. 21-10. Reserved.

Editor's note—Section 13 of Ord. No. 91-1102, adopted July 31, 1991, repealed § 21-10 in its entirety. Formerly,

§ 21-10 pertained to treatment of accumulation of water for mosquito control and derived from § 21-12, Code 1968, and § 3 of Ord. No. 85-1839, adopted Oct. 22, 1985.

Sec. 21-11. Annual report of director.

The director shall make an annual report to the mayor and city council at the end of the fiscal year, which report shall cover the entire work of the department for the preceding year. (Code 1968, § 21-19)

Sec. 21-12. Reserved.

Editor's note—Section 13 of Ord. No. 91-1102, adopted July 31, 1991, repealed § 21-12 in its entirety. Formerly, § 21-12 pertained to entry powers of enforcement officers and derived from § 21-20, Code 1968.

Sec. 21-13. International travel immunizations.

As a convenience to persons who may wish to engage in international travel, the director may offer immunization vaccinations that are not generally made available by local physicians but are required or recommended for persons traveling to certain foreign countries, including, but not limited to, cholera, typhoid and yellow fever immunizations. The fee for each vaccination that is administered, including any certificate provided therewith shall be an amount equal to the city's cost of purchase of the vaccine plus \$20.00 to cover the associated costs for providing the service and administering the vaccine. (Code 1968, § 21-140; Ord. No. 78-1131, § 1, 6-6-78; Ord. No. 78-2488, § 1, 12-12-78; Ord. No. 90-1404, § 1, 11-28-90; Ord. No. 95-23, § 1, 1-4-95; Ord. No. 98-1111, § 1, 12-2-98)

Sec. 21-14. Drinking water.

The health officer shall conduct an effective program to insure that all drinking water used by the residents of the city is safe and free from any deleterious matter and that it complies with all laws, rules, regulations and standards for drinking water of the state and the United States. Such program shall include, but not be limited to, the duty to:

- (1) Conduct drinking water quality monitoring and evaluation and maintain records thereof.

- (2) Investigate complaints of violation of Article 4477-1 of the Revised Civil Statutes of Texas and other state and federal laws applicable to drinking water standards and rules, regulations and standards issued thereunder by obtaining samples of drinking water, performing analysis and testing thereof and maintain records of such complaints, sampling, testing and analysis.
- (3) Cooperate with the city attorney, and with county, state and federal officers, offices, departments and agencies in the filing and prosecution of legal actions for the enforcement of civil and criminal sanctions relating to the provision, use, sale or supply of unsafe drinking water.
- (4) Collect and disseminate information to the general public regarding drinking water quality and safety.

(Code 1968, §§ 21-128—21-133)

Sec. 21-15. Fees charged for goods or services.

The director of the health and human services department is hereby authorized to charge and collect fees for goods or services provided by the department, provided that no person shall be denied goods or service because of his or her inability to pay for it. All fees charged pursuant to this section shall be set out in a fee schedule approved by motion by the city council and a copy shall be kept in the offices of the director and the city secretary for public inspection. The director shall consider the actual costs, direct and indirect, of the goods and services provided when recommending to the city council fees to be charged pursuant to this section. All fees collected under this section shall be remitted to the city treasurer in the manner prescribed by that official.

(Ord. No. 85-570, § 1, 4-23-85; Ord. No. 85-2159, § 1, 12-17-85)

Sec. 21-15.1. Fees charged pursuant to grants.

If the city is required to charge fees for goods or services provided by the health and human services department pursuant to the terms of a state

or federal grant accepted by ordinance, then the director is hereby authorized to charge and collect fees in accordance with the terms of the grant. All fees collected under this section shall be remitted to the city treasurer in the manner prescribed by that official.

(Ord. No. 85-1517, § 1, 8-28-85)

Editor's note—Section 1 of Ord. No. 85-1517, enacted Aug. 28, 1985, amended Ch. 21 by adding thereto a new § 21-16. Inasmuch as the Code already contained a section numbered as such, the new provisions are included herein as § 21-15.1.

Sec. 21-16. Public health internships.

(a) A health education institution wishing to sponsor a public health internship program for its nursing or other health curricula shall make written application to the director on a form promulgated by him and approved by the legal department. No other form shall be used to establish terms and conditions for public health internship programs. The director shall review each application for compliance with the terms of this section. If the application is on compliance, the director may approve it, subject to the resource and budgetary constraints of the health and human services department. The director may reject an application if the proposed program would interfere with the city's program for delivery of public health care services. If there are more complying applications than can be approved due to budgetary or resource constraints, the director shall rank and approve applications in order of their benefits to the city's program for delivery of public health care services. The director may require, as a condition of approving an application, that the sponsoring institution provide a faculty member to accompany the intern or interns during clinical experience.

(b) All health education institutions wishing to sponsor interns in a public health internship program with the department must furnish to the department's office of quality assurance and continuing education a copy of a professional liability insurance policy in the amount of \$300,000.00 per occurrence covering each intern and supervising faculty member provided by the sponsoring institution during his or her internship or during supervision or instruction given during the internship. The director may waive this insurance re-

quirement for any intern if he determines that the intern will have no patient contact. The director may condition approval of an application upon the sponsoring institution's furnishing such policy 14 days prior to the start of the internship program. Unless waived by the director pursuant to this subsection, no intern shall be allowed to commence his or her internship without a copy of an insurance policy with coverage in compliance with this subsection on file with the office of quality assurance and continuing education.

(c) All books, manuals, and other educational materials and faculty required by the internship program shall be provided by the intern or the sponsoring institution at no cost to the city.

(d) The director shall establish general administrative procedures for public health internship programs including procedures for attendance verification, absences of interns because of illness, and unsatisfactory or unprofessional conduct of interns. The director may terminate an individ-

ual internship or an internship program for failure to comply with the administrative procedures established under this subsection. The director shall furnish the city secretary with a current copy of the procedures and shall maintain a copy in his offices at the health and human services department for public inspection.

(Ord. No. 85-943, § 1, 6-25-85; Ord. No. 86-640, § 1, 5-13-86)

Note—See the editor's note following § 21-15.1.

Sec. 21-17. Cigarette vending machines.

(a) As used in this section the following words and terms shall have the meanings herein ascribed:

- (1) *Bar* means an establishment that derives fifty (50) percent or more of its gross revenues from the sale of alcoholic beverages for on-premises consumption.
- (2) *Cigarette* means:
 - a. Any roll of tobacco wrapped in paper or in any substance not containing tobacco; and
 - b. Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (2)a., above.
- (3) *Cigarette vending machine* means any self-service device which, upon insertion of coin(s), paper currency, token(s), card(s) or key(s) or any other item(s) dispenses one or more cigarettes, as defined above, provided that the term shall neither be deemed to include any machine that is in storage, in transit or otherwise not set up for use and operation nor be deemed to include any machine that is situated on a train, bus or other public conveyance.
- (4) *Restaurant bar* means any area of a restaurant excluding the dining area, that is primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which food service, if any,

is only incidental to the consumption of such beverages.

(b) Subject to the defenses provided in subsection (c), below, it shall be unlawful for any person either to own or to suffer or allow the display or use of any cigarette vending machine upon any property within the city.

(c) It is a defense to prosecution under the provisions of this section that:

- (1) The cigarette vending machine is situated in a premises where entry by any person under eighteen (18) years of age is prohibited by law; or
- (2) The cigarette vending machine is situated in a hotel, a motel, a bar or a restaurant bar; or
- (3) The cigarette vending machine is located in a workplace with the permission of the employer, provided that the employer has no persons under the age of eighteen (18) employed at the workplace, and further provided that the cigarette vending machine is situated at a location within the workplace to which persons other than those employed at the workplace are not permitted to have access.

(d) An offense under this section is a class C misdemeanor as defined by the Texas Penal Code. (Ord. No. 91-427, § 2, 3-27-91)

Secs. 21-18–21-40. Reserved.

ARTICLE II. BOARD OF HEALTH*

Sec. 21-41. Established; composition.

There is hereby established a board of health to consist of nine (9) members. The composition of the board shall be as follows:

*Cross reference—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

*Number of
Positions*

Positions

- 1 Practicing physician.
- 2 Physician specially trained or qualified in communicable diseases, particularly tuberculosis.
- 3 Veterinarian familiar with the public health phases of veterinary medicine.
- 4 Practicing dentist.
- 5 Individual with special experience and interest in environmental sanitation.
- 6 Registered nurse.
- 7 Individual with experience and interest in industrial health.
- 8-9 Civic minded citizens particularly interested in health matters (two).

In addition, the director shall be an ex officio member of the board of health, without voting privileges.
(Code 1968, § 21-31)

Sec. 21-42. Appointment of chairman and members; terms of members.

The chairman and members of the board of health shall be appointed by the mayor and confirmed by the city council for terms of two (2) years and until their successors have been duly appointed and qualified.
(Code 1968, § 21-32)

Sec. 21-43. Filling of vacancies.

Any vacancy occurring in the board of health shall be filled for the unexpired term by the mayor, subject to confirmation by the council.
(Code 1968, § 21-33)

Sec. 21-44. Compensation of members.

No salary or other compensation shall be paid to members of the board of health.
(Code 1968, § 21-34)

Sec. 21-45. Secretary; acting chairman.

The director is hereby authorized to make available the services of any qualified person in the department to serve as secretary of the board of health and to keep a full record of the proceedings of the board. If the chairman of the board is unable to attend any meeting, the board may select an acting chairman for such meeting.
(Code 1968, § 21-35)

Sec. 21-46. Meetings generally.

The board of health shall hold at least one regular meeting each month, at such time and place as it may decide, and shall from time to time hold such special meetings as it may deem necessary.
(Code 1968, § 21-36)

Sec. 21-47. Quorum.

Five (5) members of the board of health shall constitute a quorum, but a less number may adjourn from time to time, such adjourned meeting to have the same character as the original meeting would have had, had it been held.
(Code 1968, § 21-37)

Sec. 21-48. Rules and regulations.

The board of health may adopt rules of procedure to govern its deliberations and shall recommend to the city council, for adoption by ordinance, such rules and regulations as are necessary to promote the public health of the community.
(Code 1968, § 21-38)

Sec. 21-49. Incurring of debts or liability against city.

No debt or liability against the city shall be incurred by the board of health unless the same is expressly authorized by the city council through proper ordinances.
(Code 1968, § 21-39)

Secs. 21-50-21-60. Reserved.

ARTICLE III. SOUTHEAST TEXAS HOSPITAL FINANCING AGENCY*

Sec. 21-61. Determination of necessity.

It is hereby officially found and determined that it is to the best interest of the city and its inhabitants to create a hospital authority, without taxing power, of the city.

(Code 1968, § 2-100; Ord. No. 79-430, § 1, 3-21-79)

Sec. 21-62. Hospital authority—Created.

By virtue of the power conferred upon the city by the Hospital Authority Act, a hospital authority comprising the territory included within the boundaries of the city is hereby created as a body politic and corporate.

(Code 1968, § 2-101; Ord. No. 79-430, § 2, 3-21-79)

Sec. 21-63. Same—Name.

The hospital authority herein created shall be called "Southeast Texas Hospital Financing Agency," which is hereby designated as the name by which said authority shall be known.

(Code 1968, § 2-102; Ord. No. 79-430, § 3, 3-21-79)

Sec. 21-64. Powers of agency.

The Southeast Texas Hospital Financing Agency shall have the power of perpetual succession, have a seal, may sue and be sued, and may make, amend, and repeal its bylaws.

(Code 1968, § 2-103; Ord. No. 79-430, § 4, 3-21-79)

Sec. 21-65. Boundaries of agency.

The boundaries of the Southeast Texas Hospital Financing Agency shall include only that territory included within the limits of the city as such limits shall be hereafter amended or changed.

(Code 1968, § 2-104; Ord. No. 79-430, § 5, 3-21-79)

Sec. 21-66. Appropriation of public funds.

No public funds shall ever be appropriated by the city council to or for the operation of the Southeast Texas Hospital Financing Agency.

(Code 1968, § 2-105; Ord. No. 79-430, § 6, 3-21-79)

*Cross reference—Boards, commissions, authorities, etc., generally, § 2-316 et seq.

Sec. 21-67. Board of directors.

(a) The Southeast Texas Hospital Financing Agency shall be governed by a board of directors consisting of seven (7) members appointed by the city council. Such board of directors shall occupy the following designated positions; Position Number One; Position Number Two; Position Number Three; Position Number Four; Position Number Five; Position Number Six; Position Number Seven. Each director shall be appointed by the city council for a term of two (2) years, or, in the case of a vacancy, until the expiration of the applicable unexpired term.

(b) Each of the directors shall be a resident of the city.

(c) Each of the directors shall qualify by executing the oath of office required of appointed officials of the state.

(Code 1968, § 2-106; Ord. No. 79-430, § 7, 3-21-79; Ord. No. 79-492, § 1, 3-27-79)

Secs. 21-68—21-80. Reserved.

ARTICLE IV. RESERVED†

Secs. 21-81—21-105. Reserved.

ARTICLE V. RESERVED‡

Secs. 21-106—21-145. Reserved.

†Editor's note—Section 13 of Ord. No. 91-1102, adopted July 31, 1991 repealed Art. IV of Ch. 21 in its entirety. Formerly, Art. IV consisted of §§ 21-81—21-89, which pertained to nuisances and derived from §§ 21-50—21-58 of the Code of 1968; § 1 of Ord. No. 68-1766, adopted Oct. 29, 1968; § 1 of Ord. No. 69-1860, adopted Oct. 7, 1969; §§ 1 and 3 of Ord. No. 74-831, adopted May 21, 1974; § 4 of Ord. No. 85-1839, adopted Oct. 22, 1985; and § 49 of Ord. No. 90-635, adopted May 23, 1990.

‡Editor's note—Section 13 of Ord. No. 91-1102, adopted July 31, 1991 repealed Art. V of Ch. 21 in its entirety. Formerly, Art. V consisted of Divs. 1 and 2, §§ 21-106—21-111 and §§ 21-121—21-131, which pertained to rat control and derived from §§ 21-83—21-87 and §§ 21-93—21-103 of the Code of 1968; and § 5 of Ord. No. 85-1839, adopted Oct. 22, 1985.